IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE, CRIMINAL JURISDICTION

CRIMINAL APPLICATION NO. 7253 OF 2005

1. Prakash Shantaram Patil,
2. Prafulla Rohidas Patil. ..Applicants
(Orig.Accused Nos. 1&2)

Versus

The State of Maharashtra,
at the instance of Sr. P.I.
Alibag Police Station, Alibag. .. ...Respondents.

Shri. Ganesh Gole with Ms Rupali Bhosale and Ms Jyoti Singh, Advocates, for the Applicants-Original Accused Nos. 1 and 2.

Shri. K. V. Saste, A. P. P., for the Respondent-State.

CORAM: S. C. DHARMADHIKARI, J.
DATE : NOVEMBER, 16, 2005

P. C.

. Shri. Gole, learned Counsel appearing for the applicants-original Accused Nos. 1 and 2 in support, submits that Section 18 of the Scheduled Caste, Scheduled Tribes (Prevention of Atrocities) Act, 1989 is not at all attracted in this case inasmuch as the mandatory prerequisite for the offence stipulated under section 3 (1) (x) of the Act is not complied with. In these circumstances, the bar stipulated under section 18 of the Act would not apply and the anticipatory bail application

can be considered. He placed reliance upon the decision of this Court including the decision of R.M.Lodha, J. He submits that the anticipatory bail application raising identical pleas was filed before the Sessions Court and ad-interim and interim protection was granted. However, while rejecting the same by a cryptic order, all the aforementioned pleas have not been considered by the Sessions Court.

2. With the assistance of Shri. Gole as well as the learned A.P.P., I have perused the order of the learned Sessions Judge. The learned Sessions Judge has not considered as to whether section 18 of the Act is attracted or not and whether the material produced, including the complaint and the correspondence preceding the same, makes out an offence punishable under this Act. Interests of justice would, therefore, served if the prayer for anticipatory bail is reconsidered by the Sessions Court. Accordingly, the following order.

(i) Criminal Miscellaneous Application No. 656/2005 filed before the Sessions Court at Raigad, Alibag is restored to file for being disposed of in accordance with law.

(ii) Pending the disposal of the application

as aforesaid, the applicant shall not be arrested. However, the applicant shall comply with the conditions stipulated under section 437 (2) and (3) of the Code of Criminal Procedure, 1973. The learned Sessions Judge shall make endeavour to dispose of the application within a period of three weeks from the receipt of a copy of this order.

(S. C. DHARMADHIKARI, J.)

logic:MPR/2005.